

103D CONGRESS  
2D SESSION

# H. R. 3843

To require the Administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs for low and medium priority sites.

---

## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1994

Mr. VISCLOSKY (for himself, Mr. REGULA, Ms. KAPTUR, Mr. GALLO, Mr. LIPINSKI, and Mr. FINGERHUT) introduced the following bill; which was referred to the Committee on Energy and Commerce

---

## A BILL

To require the Administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs for low and medium priority sites.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Brownfield Cleanup  
5       and Redevelopment Act”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—The Congress finds the following:

1           (1) Hundreds of thousands of obsolete indus-  
2       trial sites nationwide are polluted with medium to  
3       low amounts of environmental contamination.

4           (2) Reusing these sites requires cleanup of the  
5       contamination, adding costs and uncertainties to the  
6       redevelopment process.

7           (3) Left unused, these contaminated sites mean  
8       loss of tax revenues and job opportunities for the  
9       community and pose potential risks to nearby resi-  
10      dents or people who venture onto the site.

11          (4) State efforts to encourage voluntary cleanup  
12      and redevelopment of such sites are hindered by  
13      Federal requirements for environmental permits to  
14      conduct the cleanups and by the lack of Federal cer-  
15      tification of such State efforts.

16      (b) PURPOSE.—The purpose of this Act is to encour-  
17      age cleanup and redevelopment of contaminated industrial  
18      facilities (known as “brownfields”) as economically viable  
19      alternatives to previously undeveloped “greenfield” sites.

20      **SEC. 3. CERTIFICATION OF STATE VOLUNTARY CLEANUP**  
21                                      **PROGRAMS.**

22      (a) IN GENERAL.—Not later than one year after the  
23      date of the enactment of this Act, the Administrator of  
24      the Environmental Protection Agency (hereinafter in this  
25      Act referred to as the “Administrator”) shall establish cer-

1 tification criteria for State voluntary cleanup programs at  
2 eligible facilities. If a State meets the criteria for certifi-  
3 cation, the Administrator shall certify the State to carry  
4 out the cleanup program in such State at eligible facilities  
5 in lieu of any Federal program that addresses the cleanup  
6 of such facilities under the Comprehensive Environmental  
7 Response, Compensation, and Liability Act of 1980 or the  
8 Solid Waste Disposal Act.

9       (b) BIENNIAL AUDITS AND REVOCATION OF STATE  
10 CERTIFICATION.—The Administrator shall ensure that  
11 State programs continue to meet the terms of the certifi-  
12 cation issued pursuant to subsection (a) by conducting bi-  
13 ennial audits of State voluntary cleanup programs. If the  
14 Administrator finds that the State is not administering  
15 the program in accordance with the terms of the certifi-  
16 cation, the Administrator shall notify the State of defi-  
17 ciencies and of the Administrator's intention to withdraw  
18 the State's certification if the deficiencies are not resolved  
19 within 6 months. Withdrawal of State certification shall  
20 not affect any cleanup completed and approved by the  
21 State as of the date of such withdrawal.

22       (c) SPECIFIC CRITERIA.—The Administrator shall re-  
23 quire that, in order for a State voluntary cleanup program  
24 to be certified under subsection (a), the program shall, at  
25 a minimum, contain each of the following provisions—

1           (1) The program shall provide that only eligible  
2 facilities, as described in subsection (d), may partici-  
3 pate in the program.

4           (2) The program shall provide adequate oppor-  
5 tunities for public participation in the development  
6 and implementation of cleanup plans for eligible fa-  
7 cilities. Public participation requirements shall in-  
8 clude but not be limited to providing opportunity for  
9 affected parties to review and comment on cleanup  
10 documents and plans, and providing opportunity for  
11 public input to the remedy selection process. Af-  
12 fected parties shall include but not be limited to  
13 local work force representatives, adjacent community  
14 residents, and local environmental and other public  
15 interest organizations.

16           (3) The program shall provide technical assist-  
17 ance throughout each voluntary cleanup.

18           (4) The program shall provide adequate over-  
19 sight and enforcement authority to ensure that the  
20 voluntary cleanups comply with Federal and State  
21 laws (except permit requirements as provided in sub-  
22 section (e)).

23           (5) provide for a certification from the State to  
24 the owner or prospective purchaser of an eligible fa-  
25 cility that the cleanup is complete.

1 (d) ELIGIBLE FACILITIES.—For purposes of this Act,  
2 the term “eligible facility” means a facility or property  
3 in a State that is determined by the State to have environ-  
4 mental contamination that—

5 (1) could prevent the timely use, development,  
6 or reuse of the facility or property; and

7 (2) is limited in scope and can be comprehen-  
8 sively and readily evaluated.

9 Such term shall not include any of the following:

10 (A) A facility that is eligible for abatement ac-  
11 tion under section 106 of the Comprehensive Envi-  
12 ronmental Response, Compensation, and Liability  
13 Act of 1980.

14 (B) A facility that, as of the date of the enact-  
15 ment of this Act, is subject to Federal enforcement  
16 action under the Comprehensive Environmental Re-  
17 sponse, Compensation, and Liability Act of 1980 (42  
18 U.S.C. 9601 et seq.).

19 (C) A facility included, or proposed for inclu-  
20 sion, on the National Priorities List or on the com-  
21 prehensive environmental response, compensation,  
22 and liability inventory system (“CERCLIS”) that  
23 has been evaluated as high priority under the hazard  
24 ranking system.

1           (D) A facility required to have a permit under  
2           section 3005 of the Solid Waste Disposal Act that  
3           does not have a permit under that section and does  
4           not qualify for authorization to operate in interim  
5           status under subsection (e) of that section.

6           (E) A land disposal unit with respect to which  
7           a closure notification under subtitle C of the Solid  
8           Waste Disposal Act (42 U.S.C. 6921 et seq.) is sub-  
9           mitted and closure requirements are specified in a  
10          closure plan or permit.

11          (F) A facility subject to corrective action under  
12          section 3004(u) or 3008(h) of the Solid Waste Dis-  
13          posal Act (42 U.S.C. 5924(u) or 6928(h)) that is  
14          evaluated as high priority under the Environmental  
15          Protection Agency's National Corrective Action Pri-  
16          ority System as set forth in regulations under sub-  
17          title C of the Solid Waste Disposal Act.

18          (G) A facility at which assistance for response  
19          activities may be obtained pursuant to subtitle I of  
20          the Solid Waste Disposal Act (42 U.S.C. 6991 et  
21          seq.) from the Leaking Underground Storage Tank  
22          Trust Fund established under section 9508 of the  
23          Internal Revenue Code of 1986.

1           (H) A facility owned or operated by a depart-  
2       ment, agency, or instrumentality of the United  
3       States.

4       (e) RELATIONSHIP TO PERMIT REQUIREMENTS.—No  
5       Federal, State, or local permit shall be required for any  
6       cleanup conducted under a State voluntary cleanup pro-  
7       gram certified under this section, if the cleanup is carried  
8       out in compliance with the certified program.

○